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Can Government Investigate Anyone?

We thought we had heard about the ultimate in official snooping when Attorney General Mitchell proclaimed that the Executive Branch has an unlimited right to eavesdrop on anyone it considers a threat to national security. But now Assistant Attorney General Rehnquist has outdone him. Appearing before the Ervin subcommittee the other day, Mr. Rehnquist said the Executive Branch has and must continue to have the right to collect and store data on the affairs of any citizen so long as those affairs are relevant to a subject in which the federal government has a legitimate interest.

Mr. Rehnquist, of course, didn't quite put his position so starkly. He talked first of the Executive Branch's right to investigate, resting that right on the constitutional responsibility of the President to enforce the law and on the promise to the states in the Constitution that the federal government will assure that they continue to have a republican form of government and will help them put down domestic violence if need be. Then he talked about the federal government's role in preventing as well as prosecuting violations of the law. And he concluded by arguing that this vital investigative function must remain unimpaired although it could be confined to matters in which the government has a legitimate interest. He also conceded that some restrictions might properly be placed on the way the government handles and makes public what its files contain.

When you examine this position, the question that leaps to mind is what—if any—subjects the government may be said not to have a legitimate interest in. It has a legitimate interest in every penny of your income and, maybe, of your spending; the income tax law touches directly on income and tax evasion cases are sometimes based on showing that the taxpayer spent more than he reported receiving. The government contends it has a legitimate interest in the political views of citizens; the loyalty-security program is deeply concerned about those views and so, apparently, are those government officials who worry about protecting the states against domestic violence. That takes care of the fiscal and political affairs

of every citizen. Now for the family and social affairs. Some of these matters are considered relevant in security investigations and others are considered relevant to such things as the sentencing of persons convicted of crime or the granting of welfare and social security benefits.

When you add up these interests and apply to them Mr. Rehnquist's argument, it appears that the government has a right to investigate, and collect and store data on, just about everything you do, except, perhaps, your religious affairs. As Senator Mathias points out elsewhere on this page, such an approach to the investigatory function of government raises fantastic possibilities. That is particularly true since Mr. Rehnquist was not merely talking about information the government acquires *after* it suspects a person of wrongdoing: he was also talking about information collected by the government in its effort to prevent violations of law. How many people have led such perfect lives that they would be willing to have them immortalized inside a government computer?

There is no doubt that the tools of modern technology can be a great aid to the government in its fight against crime. Computers and data storage banks may be able to produce many of the linkages—particularly in the area of organized crime—that old-fashioned methods of intelligence gathering cannot. But it simply cannot be that the government has a right to rummage around in the affairs of any citizen as it chooses, whether or not it has cause to suspect him of committing crime. That, it is worth remembering, was the nightmare in the telescreer of which George Orwell wrote in 1984:

There was of course no way of knowing whether you were being watched at any given moment. How often, or on what system, the Thought Police plugged in on any individual wire was guesswork. It was even conceivable that they watched everybody all the time . . . You had to live—did live, from habit that became instinct—on the assumption that every sound you made was overheard, and, except in darkness, every moment scrutinized.

The alleged power of government to collect and store data on anyone's affairs, anytime it wants to, is not *that* far from the telescreer.